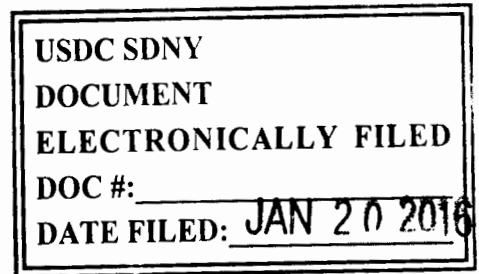




SOLOMON B. CERA  
[scera@cerallp.com](mailto:scera@cerallp.com)



January 18, 2016

**VIA EMAIL**

The Honorable Katherine B. Forrest  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1950  
New York, NY 10007

Re: *In re Zinc Antitrust Litigation*, No. 14 Civ. 3728 (KBF)

Dear Judge Forrest:

This responds to the letters to the Court from Defendants' counsel dated January 15, 2016 concerning Plaintiffs' request for an extension to file an amended complaint.

Defendants argue that a motion for reconsideration based on evidence obtained from the *Aluminum Warehousing Antitrust Litigation*, No. 13-md-2481 (KBF) would be futile because Plaintiffs could have previously obtained such evidence. This ignores the unique procedural history of the *Zinc* litigation. In arguing that pre-complaint discovery is generally prohibited, defendants Glencore Ltd. and Pacorini Metals USA, LLC fail to acknowledge this Court's order in *Aluminum*, where document discovery was permitted at the first conference held with the Court in early 2014. *Aluminum*, ECF No. 154. In contrast, no discovery occurred in this case until after the hearing on Defendants' motions to dismiss on October 30, 2015. Pursuant to an agreement with Defendants, discovery was promptly propounded by Plaintiffs thereafter. Indeed, Defendants responded to those requests and the parties were about to engage in the meet and confer process when the Court entered its January 7, 2016 Order.

In *Zinc*, Plaintiffs were to use the Court's orders on motions to dismiss in *Aluminum* as a roadmap for their pleading. As noted, however, the *Aluminum* complaints were supported by extensive discovery, as well as materials from the Senate investigation that focused on the aluminum market. Thus, while Plaintiffs were informed by the Court's *Aluminum* orders as to the legal standards to be applied, they have been at a distinct disadvantage in comparison to

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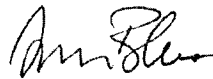
plaintiffs in *Aluminum* as a result of the absence of any discovery. Moreover, presently, there are no pending publicly announced investigations of the zinc market.

If Plaintiffs are permitted to intervene in *Aluminum* for purposes of accessing the document database that has been created with a view to examining and using evidence relating to the zinc market, such evidence would in fact constitute "new" evidence for purposes of *Zinc*. Thus the requested extension based on the intervention motion and to modify the *Aluminum* protective order would not be futile.

In the event the Court is inclined not to permit an extension to accommodate the potential for a reconsideration motion, we respectfully request an additional two weeks, to and including February 11, 2016, to amend as to Counts III and IV which were dismissed with leave to amend. Such a fourteen (14) day extension would present no prejudice whatsoever to Defendants Glencore and Pacorini Metals USA and they have identified none in their letter.

Thank you for your consideration

Very truly yours,



Solomon B. Cera

cc: Counsel of Record

Ordered  
Request for 14-day extension to file  
amend complaint as to Counts III and  
IV is GRANTED.

153.70  
LSDJ

1/20/16